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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,612	12/05/2000	Dave Stephens	021756-065800US	7393
51206 7590 03/30/2009 TOWNSEND AND TOWNSEND AND CREW LLP TWO EMBARCADERO CENTER 8TH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
FADOK, MARK A				
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3625				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/730,612

Applicant(s)

STEPHENS ET AL.

Examiner

MARK FADOK

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The examiner is in receipt of applicant's response to office action mailed 10/3/2008, which was received 2/3/2009. Acknowledgement is made to the amendment to claims 2,3,10. Applicant's remarks and amendment have been carefully considered, but were not persuasive, therefore the previous rejection modified as requested by applicant is provided below.

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,6,7,8,9,10,11,13,16,17,18,19,20 are rejected under 35

U.S.C. 103(a) as being unpatentable over Covisint (a collection of articles Covisint1-3) in view of Oracle (a collection of articles Oracle1-7, in view of Kaplan (US 5,701,460).

In regards to claim 1,10,20, Covisint discloses a multiple exchange (ecommerce portal) instance, comprising:

- a plurality of exchanges (ecommerce portal); and
- a common instance for implementing the exchanges (Covisint's B2B exchange, common exchange, Covisint3),

Covisint teaches the exchanges sharing a set of common components (sharing the common technology or the Covisint exchange, Ford, GM, DaimlerChrysler) and each exchange (ecommerce portal), but does not specifically mention having a respective view having respective unique components. Oracle teaches a common instance with personalized views (Oracle2). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Covisint having a respective view having respective unique components as is taught by Oracle, because this would permit different exchanges to use the components that best suit their needs within the common instance to provide flexibility, thus increasing revenue by having different companies on one localized exchange.

wherein the common instance comprises a database divided into a plurality of sub-schemas (Covisint3 page 3 , different sub-schemas within one exchange sharing a common instance, Covisint, and having sub-schemas that protect the information),

Applicant may argue that the references do not teach sub-schemas, for this reason Kaplan is offered as an example of how sub-schemas are used in a relational database to produce a view of just a portion of an entire database as directed by the sub-schema (Kaplan, col 2, lines 1-20) It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Covisint and Oracle the use of sub-schemas, because this provides only the data that the user wishes to use thus reducing clutter on the web site screen.

wherein each of the exchanges (ecommerce portal) is implemented within a respective one of the sub-schemas providing a respective partial view of the common instance (each has own web site, Oracle2 page 2), and wherein each of the exchanges (ecommerce portal) is allocated to a different merchant (Covisint, Ford, GM, DailmerChrysler).

Further, it is noted that all of the elements of the cited references perform the same function when combined as they do in the prior art . Thus such a combination would have yielded predictable results (see Sakraida, 425 US at 282, 189 USPQ at 453. Since the independent claims only unite old elements with no change in there respective functions the claimed subject matter would have been obvious under KSR, 127 S. Ct at 1741, 82 USPQ2d at 1396.

Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* (KSR, 82 USPQ2d at 1396) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex arte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007).

In regards to claim 3,13 the combination of Covisint, Oracle, and Kaplan teach wherein the multiple exchanges each have a respective operator, and wherein the multiple exchange instance allows each operator to perform input/output using the common components to perform the input/output for each of the multiple exchanges (Covisint3, each automaker makes their own orders using the Covisint exchange).

In regards to claim 6,16 the combination of Covisint, Oracle, and Kaplan teach wherein the common input/output comprises a registration operation for each of the exchanges (Oracle6).

In regards to claim 7, 17 the combination of Covisint, Oracle, and Kaplan teach wherein the multiple exchanges are configured to use communication protocols to communicate with processes external to the common instance (Oracle7, Integration software for communication with businesses over the internet that uses protocols of either Java or XML).

In regards to claim 8,18, the combination of Covisint, Oracle, and Kaplan teach wherein the communication protocol is XML (See claim 7 above).

In regards to claim 9,19, the combination of Covisint, Oracle, and Kaplan teach wherein the common instance is implemented using a database program running on one or more computer systems (see response to claim 1).

In regards to claim 11, Covisint teaches wherein the exchanges share a set of common components within the common support architecture and wherein the custom view has respective unique components (see response to claim 1).

Claims 2,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covisint (a collection of articles Covisint1-3) in view of Oracle (a collection of articles Oracle1-7, in view of Kaplan (US 5,701,460) and further in view of Admitted Prior Art (APA) (US PG PUB 20020069120 to Stephens)

In regards to claim 2,12 the combination of Covisint Oracle, and Kaplan teach the multiple exchanges are implemented within the common instance and wherein the common instance facilitates communication between a first exchange of the exchanges and a second exchange of the exchanges. (Covisint3, common technology platform), facilitates communication between exchanges (Covisint3, all parties may examine stock

levels of common suppliers, and Covisint page 30 collaborative product design).

Further, it is noted that APA teaches facilitating communication between the exchanges was old and well known in the art. It would have been obvious to a person having ordinary skill in the art at the time of the invention to communicate between suppliers since each company may benefit by knowing the levels of use of inventory at a shared supplier and can make more informed decision thus saving money by not having to order as often.

Claims 4,5,14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Covisint (a collection of articles Covisint1-3) in view of Oracle (a collection of articles Oracle1-7, in view of Kaplan (US 5,701,460) and further in view of Official Notice

In regards to claim 4,14 the combination of Covisint, Oracle, and Kaplan teach input and out put from a common portal, but does not specifically mention that there is an authentication operation for each of the exchanges, The examiner takes official notice that the use of authentication techniques when entering a portal was old and well known in the art at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Covisint and Oracle, authentication by a user, because this will prohibit unauthorized suppliers from

entering the portal and provide for a charging mechanizing to assure that fees were paid.

In regards to claim 5,15 the combination of Covisint, Oracle, and Kaplan teach the use of a catalog method within an exchange (oracle5), but does not specifically mention that the catalog has input and output. The examiner takes official notice that it was old and well known in the art at the time of the invention to permit input and output to an online catalog. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Covisint, Oracle, and Kaplan to permit input and output to an online catalog , because this is important to assure that a product is in the common catalog for customers to peruse, since if the operator was using a catalog model and no information was in the catalog or a buyer was not able to access the catalog then no transaction would result and revenue from providing transactions would be significantly reduced.

Response to Arguments

Applicant's arguments filed 7/8/2008 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In regards to claims 1-9 and 20, Applicant appears to agree that the combination of Covisint, Oracle and Kaplan does teach the broadly recited features but argues that the references do not enable the claimed invention. The examiner disagrees and notes that the combination of Covisint, Oracle and Kaplan clearly describe the broadly encompassing features of the instant invention. One skilled in the would understand that computers would be necessary to execute the applications that define the backbone of the common exchange used for provide to a world wide automotive supply chain a broad range of services including catalog services, auction services, sourcing services, financial services...payment and logistics (Covisint2). Clearly the global exchange described in the prior art, including applications such as Release 11i, would not be broken down to their base functionality and then implemented without the use of its intended computerized functionality on the internet.

Applicant argues that the examiner did not provide a prima facie case in regards to claims 11-20 because specific teachings were not pointed out. The examiner disagrees and notes that "In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of

each reference, if not apparent, must be clearly explained and each rejected claim specified" (MPEP 706, and 37 CFR 1.104). The examiner does not consider the references complex and the pertinence of each reference was clearly articulated in the previous rejection of claims 1-20.

In regards to claim 10, Applicant apparently cannot find the teaching for "implementing a common support architecture" and "implementing efficient communication between exchanges using the common support architecture". The examiner directs applicant's attention to at least Covisint2 and 3 which clearly teaches a common support architecture in the statements "sharing a common technology platform" and "the goal is to become the supply backbone of the entire automotive industry", Further, applicant may also peruse the Oracle documents which cite common support architecture for example in Oracle5 "Oracle exchange will be the backbone for the AutoXchange online automotive supply network". In regards to "implementing efficient communication between exchanges using the common support architecture". It is also noted that the term "efficient" is not an actionable feature but at best a possible result of the communications architecture. With that said, Covisint clearly teaches improved communication using the common exchange architecture at least in Covisint3, "Just consider how much more efficient the process becomes via the new exchange on the internet. Everyone in the chain will have the capability to communicate information in real-time" and (Covisint1, page 38).

Official Notice Traverse

A “traverse” is a denial of an opposing party’s allegations of fact. The Examiner respectfully submits that applicants’ arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants’ arguments and comments as constituting a traverse, applicants’ arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner’s notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Conclusion

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the

grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300 [Official communications; including

After Final communications labeled

"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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/Mark Fadok/

Primary Examiner, Art Unit 3625